

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

AARON SMITH, individually and on
behalf of all similarly situated
individuals,

Plaintiff,

v.

SILVERSTAR DELIVERY, LTD.,
AMAZON.COM, LLC, and
AMAZON.COM SERVICES, INC.,

Defendants.

Case No. 2:18-cv-10501-DML-RSW

Hon. David M. Lawson
Magistrate Judge R. Steven Whalen

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JOINT STATUS REPORT AND RULE 26(f) DISCOVERY PLAN

Plaintiff Aaron Smith (“Plaintiff”) and Defendants Silverstar Delivery, LTD (“Silverstar”), Amazon.com, LLC, and Amazon.com Services, Inc. (“Amazon”) (collectively, “Defendants”) (together, the “Parties”), by and through their attorneys and in accordance with the Federal Rules of Civil Procedure and this Court’s April 27, 2018 Notice to Appear (Dkt. 22), hereby submit the following Joint Status Report and Rule 26(f) Discovery Plan, as follows:

I. Meet and Confer.

The Parties met and conferred regarding the discovery plan via telephone on May 15, 2018.

II. Brief Summary of the Case and Issues.

Silverstar contracts with Amazon to provide delivery services to Amazon’s customers. Plaintiff is a former delivery driver who was paid by Defendant Silverstar and delivered packages to Amazon’s customers in Michigan.

Plaintiff filed a Complaint against Defendants alleging violations of the Fair Labor Standards Act (“FLSA”). Plaintiff claims that Defendants are joint employers, and that Defendants failed to pay him and others similarly situated to him overtime for hours worked over 40 hours per week, instead paying him and others a flat daily rate, without regard to the actual number of hours worked and

without payment of any overtime premium. He also alleges Defendants failed to keep adequate time records in violation of the FLSA.

Defendants maintain that Plaintiffs' claims are without merit and deny engaging in any unlawful conduct. Amazon further denies that it had an employment relationship with Plaintiff or any of the putative collective action members.

III. Subject Matter Jurisdiction.

This Court has subject matter jurisdiction under 28 U.S.C. § 1331.

IV. Relationship to Other Cases.

Not Applicable.

V. Discovery Plan.

The Parties have discussed engaging in targeted, informal discovery in an attempt to settle this matter. As noted below, the Parties intend to engage in private facilitation on a mutually-agreeable date in late July or early August 2018, pending an agreement between the Parties related to tolling the statute of limitations for the putative class.

If the Parties are unable to resolve this matter at facilitation, the Parties agree to the following deadlines:

- A. Rule 26(a)(1) Disclosures:** August 1, 2018
- B. Completion of Fact Discovery:** April 1, 2019
- C. Dispositive Motions:** May 15, 2019

D. Responses to Dispositive Motions: June 19, 2019

E. Replies to Dispositive Motions: July 17, 2019

VI. Necessity of Amendments to Pleadings and Motions to Join Additional Parties.

Plaintiff is contemplating filing a second amended complaint (“SAC”) which adds an additional plaintiff and defendant. If Plaintiff decides to do so, Plaintiff expects to file either the SAC, with Defendants’ written consent, or a motion for leave of Court to file the SAC, within 14 days. The Parties reserve the right to later amend or seek leave to amend the pleadings, consistent with Fed. R. Civ. P. 15 and any applicable Rules or Orders of the Court.

VII. Expert Discovery and Testimony.

Neither Plaintiff nor Defendants have yet determined whether expert discovery and/or testimony will be necessary in this case. However, the Parties believe that expert testimony may be necessary regarding Plaintiff’s claimed damages. In the interest of efficiency and conserving the Parties’ resources, the Parties request that the Court schedule a status hearing to occur after the resolution of any dispositive motions to set expert discovery deadlines, including expert disclosures pursuant to Fed. R. Civ. P. 26(a)(2), if necessary.

VIII. Anticipated Motions.

Defendants anticipate filing a motion for summary judgment after the close of fact discovery. Plaintiff has not yet determined whether he will file a dispositive

motion, but reserves the right to do so at the appropriate time. Plaintiff intends to file a motion for conditional certification and notice.

IX. Case Evaluation and Mediation.

The Parties believe Alternative Dispute Resolution is worthwhile at this time. The Parties have discussed participating in a private facilitation with a facilitator who has experience resolving employment disputes on a mutually-agreeable date in late July or early August 2018 should the Parties reach an agreement regarding tolling the statute of limitations for the putative class.

X. Limitations on Discovery.

Before conditional certification, the Parties agree to adhere to the limitations on discovery as set forth in the Federal Rules of Civil Procedure; however, they reserve the right to move the Court for additional discovery if necessary. Following the Court's ruling on Plaintiff's anticipated motion for conditional certification and notice, the Parties will meet and confer and propose a joint discovery plan relating to discovery of the opt-in plaintiffs, as appropriate.

XI. Issues Relating to Discovery of Electronically Stored Information.

The Parties agree to meet-and-confer regarding ESI procedures and protocols by **August 15, 2018**, including the form in which ESI would be produced, should this matter proceed to fact discovery.

XII. Issues Relating to Preservation of Discoverable Information.

The Parties are not aware of any issues relating to preservation of discoverable information.

XIII. Estimated Length of Trial.

The Parties estimate that trial in this matter would last approximately four days.

Dated: May 16, 2018

AARON SMITH

By: /s/ Laura E. Reasons
(w/permission)
One of Its Attorneys

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on May 16, 2018 a copy of the foregoing document was filed electronically through the Court's CM/ECF system, which will send a notice of electronic filing to counsel of record for Plaintiff:

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